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SENATE BILL 5440

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State of Washington

60th Legislature

2007 Regular Session

By Senators Keiser, Kauffman and Rockefeller

Read first time 01/19/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to public facilities districts and regional centers  
2 under the authority of such districts; amending RCW 35.57.010 and  
3 82.14.390; adding a new section to chapter 82.08 RCW; and adding a new  
4 section to chapter 82.12 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 35.57.010 and 2002 c 363 s 1 are each amended to read  
7 as follows:

8 (1)(a) The legislative authority of any town or city located in a  
9 county with a population of less than one million may create a public  
10 facilities district.

11 (b) The legislative authorities of any contiguous group of towns or  
12 cities located in a county or counties each with a population of less  
13 than one million may enter an agreement under chapter 39.34 RCW for the  
14 creation and joint operation of a public facilities district.

15 (c) The legislative authority of any town or city, or any  
16 contiguous group of towns or cities, located in a county with a  
17 population of less than one million and the legislative authority of a  
18 contiguous county, or the legislative authority of the county or

1 counties in which the towns or cities are located, may enter into an  
2 agreement under chapter 39.34 RCW for the creation and joint operation  
3 of a public facilities district.

4 (d) The legislative authority of a city located in a county with a  
5 population greater than one million may create a public facilities  
6 district, when such city has a total population of less than one  
7 hundred fifteen thousand but greater than eighty thousand and commences  
8 construction on a regional center prior to July 1, 2008.

9 (2)(a) A public facilities district shall be coextensive with the  
10 boundaries of the city or town or contiguous group of cities or towns  
11 that created the district.

12 (b) A public facilities district created by an agreement between a  
13 town or city, or a contiguous group of towns or cities, and a  
14 contiguous county or the county in which they are located, shall be  
15 coextensive with the boundaries of the towns or cities, and the  
16 boundaries of the county or counties as to the unincorporated areas of  
17 the county or counties. The boundaries shall not include incorporated  
18 towns or cities that are not parties to the agreement for the creation  
19 and joint operation of the district.

20 (3)(a) A public facilities district created by a single city or  
21 town shall be governed by a board of directors consisting of five  
22 members selected as follows: (i) Two members appointed by the  
23 legislative authority of the city or town; and (ii) three members  
24 appointed by legislative authority based on recommendations from local  
25 organizations. The members appointed under (a)(i) of this subsection,  
26 shall not be members of the legislative authority of the city or town.  
27 The members appointed under (a)(ii) of this subsection, shall be based  
28 on recommendations received from local organizations that may include,  
29 but are not limited to the local chamber of commerce, local economic  
30 development council, and local labor council. The members shall serve  
31 four-year terms. Of the initial members, one must be appointed for a  
32 one-year term, one must be appointed for a two-year term, one must be  
33 appointed for a three-year term, and the remainder must be appointed  
34 for four-year terms.

35 (b) A public facilities district created by a contiguous group of  
36 cities and towns shall be governed by a board of directors consisting  
37 of seven members selected as follows: (i) Three members appointed by  
38 the legislative authorities of the cities and towns; and (ii) four

1 members appointed by the legislative authority based on recommendations  
2 from local organizations. The members appointed under (b)(i) of this  
3 subsection shall not be members of the legislative authorities of the  
4 cities and towns. The members appointed under (b)(ii) of this  
5 subsection, shall be based on recommendations received from local  
6 organizations that include, but are not limited to the local chamber of  
7 commerce, local economic development council, local labor council, and  
8 a neighborhood organization that is directly affected by the location  
9 of the regional center in their area. The members of the board of  
10 directors shall be appointed in accordance with the terms of the  
11 agreement under chapter 39.34 RCW for the joint operation of the  
12 district and shall serve four-year terms. Of the initial members, one  
13 must be appointed for a one-year term, one must be appointed for a two-  
14 year term, one must be appointed for a three-year term, and the  
15 remainder must be appointed for four-year terms.

16 (c) A public facilities district created by a town or city, or a  
17 contiguous group of towns or cities, and a contiguous county or the  
18 county or counties in which they are located, shall be governed by a  
19 board of directors consisting of seven members selected as follows:  
20 (i) Three members appointed by the legislative authorities of the  
21 cities, towns, and county; and (ii) four members appointed by the  
22 legislative authority based on recommendations from local  
23 organizations. The members appointed under (c)(i) of this subsection  
24 shall not be members of the legislative authorities of the cities,  
25 towns, or county. The members appointed under (c)(ii) of this  
26 subsection shall be based on recommendations received from local  
27 organizations that include, but are not limited to, the local chamber  
28 of commerce, the local economic development council, the local labor  
29 council, and a neighborhood organization that is directly affected by  
30 the location of the regional center in their area. The members of the  
31 board of directors shall be appointed in accordance with the terms of  
32 the agreement under chapter 39.34 RCW for the joint operation of the  
33 district and shall serve four-year terms. Of the initial members, one  
34 must be appointed for a one-year term, one must be appointed for a  
35 two-year term, one must be appointed for a three-year term, and the  
36 remainder must be appointed for four-year terms.

37 (4) A public facilities district is a municipal corporation, an

1 independent taxing "authority" within the meaning of Article VII,  
2 section 1 of the state Constitution, and a "taxing district" within the  
3 meaning of Article VII, section 2 of the state Constitution.

4 (5) A public facilities district shall constitute a body corporate  
5 and shall possess all the usual powers of a corporation for public  
6 purposes as well as all other powers that may now or hereafter be  
7 specifically conferred by statute, including, but not limited to, the  
8 authority to hire employees, staff, and services, to enter into  
9 contracts, and to sue and be sued.

10 (6) A public facilities district may acquire and transfer real and  
11 personal property by lease, sublease, purchase, or sale. No direct or  
12 collateral attack on any public facilities district purported to be  
13 authorized or created in conformance with this chapter may be commenced  
14 more than thirty days after creation by the city and/or county  
15 legislative authority.

16 **Sec. 2.** RCW 82.14.390 and 2006 c 298 s 1 are each amended to read  
17 as follows:

18 (1) Except as provided in subsection (6) of this section, the  
19 governing body of a public facilities district (a) created before July  
20 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction  
21 of a new regional center, or improvement or rehabilitation of an  
22 existing new regional center, before January 1, 2004, or (b) created  
23 before July 1, 2006, under chapter 35.57 RCW in a county or counties in  
24 which there are no other public facilities districts on June 7, 2006,  
25 and in which the total population in the public facilities district is  
26 greater than ninety thousand that commences construction of a new  
27 regional center before February 1, 2007, or (c) created under the  
28 authority of RCW 35.57.010(1)(d), may impose a sales and use tax in  
29 accordance with the terms of this chapter. The tax is in addition to  
30 other taxes authorized by law and shall be collected from those persons  
31 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
32 the occurrence of any taxable event within the public facilities  
33 district. The rate of tax shall not exceed 0.033 percent of the  
34 selling price in the case of a sales tax or value of the article used  
35 in the case of a use tax.

36 (2) The tax imposed under subsection (1) of this section shall be  
37 deducted from the amount of tax otherwise required to be collected or

1 paid over to the department of revenue under chapter 82.08 or 82.12  
2 RCW. The department of revenue shall perform the collection of such  
3 taxes on behalf of the county at no cost to the public facilities  
4 district.

5 (3) No tax may be collected under this section before August 1,  
6 2000. The tax imposed in this section shall expire when the bonds  
7 issued for the construction of the regional center and related parking  
8 facilities are retired, but not more than twenty-five years after the  
9 tax is first collected.

10 (4) Moneys collected under this section shall only be used for the  
11 purposes set forth in RCW 35.57.020 and must be matched with an amount  
12 from other public or private sources equal to thirty-three percent of  
13 the amount collected under this section, provided that amounts  
14 generated from nonvoter approved taxes authorized under chapter 35.57  
15 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW  
16 shall not constitute a public or private source. For the purpose of  
17 this section, public or private sources includes, but is not limited to  
18 cash or in-kind contributions used in all phases of the development or  
19 improvement of the regional center, land that is donated and used for  
20 the siting of the regional center, cash or in-kind contributions from  
21 public or private foundations, or amounts attributed to private sector  
22 partners as part of a public and private partnership agreement  
23 negotiated by the public facilities district.

24 (5) The combined total tax levied under this section shall not be  
25 greater than 0.033 percent. If both a public facilities district  
26 created under chapter 35.57 RCW and a public facilities district  
27 created under chapter 36.100 RCW impose a tax under this section, the  
28 tax imposed by a public facilities district created under chapter 35.57  
29 RCW shall be credited against the tax imposed by a public facilities  
30 district created under chapter 36.100 RCW.

31 (6) A public facilities district created under chapter 36.100 RCW  
32 is not eligible to impose the tax under this section if the legislative  
33 authority of the county where the public facilities district is located  
34 has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW  
36 to read as follows:

37 (1) The tax imposed by RCW 82.08.020 does not apply to:

1 (a) Charges made for labor and services rendered by any person in  
2 respect to the construction of a new regional center by a public  
3 facilities district authorized under RCW 35.57.010(1)(d), to sales of  
4 tangible personal property that becomes an ingredient or component of  
5 the new regional center during the course of the construction, or to  
6 labor and services rendered in respect to installing building fixtures  
7 during the course of constructing the new regional center; or

8 (b) Sales of tangible personal property to a consumer as defined in  
9 RCW 82.04.190(6), if the tangible personal property is incorporated  
10 into, installed in, or attached to a new building or other new  
11 structure constructed for the United States or any of its  
12 instrumentalities, and the building or other structure meets the  
13 definition of "regional center" in RCW 35.57.020.

14 (2) No application is necessary for the tax exemption in this  
15 section. The exemption is available only if the buyer provides the  
16 seller with an exemption certificate in a form and manner prescribed by  
17 the department.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW  
19 to read as follows:

20 The provisions of this chapter do not apply in respect to the use  
21 of tangible personal property:

22 (1) That becomes an ingredient or component of a new regional  
23 center constructed by a public facilities district authorized under RCW  
24 35.57.010(1)(d), during the course of constructing the new regional  
25 center, or to labor and services rendered in respect to installing  
26 building fixtures during the course of constructing the new regional  
27 center; or

28 (2) By a consumer as defined in RCW 82.04.190(6), if the tangible  
29 personal property is incorporated into, installed in, or attached to a  
30 new building or other new structure constructed for the United States  
31 or any of its instrumentalities, and the building or other structure  
32 meets the definition of "regional center" in RCW 35.57.020.

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